

**REMARKS:**

This communication is in response to the detailed Office Action mailed December 9, 2004. Applicant has amended the specification and the drawings, so replacement sheets for the drawings are attached to this Amendment as Appendix A. Applicant also amended claims 1, 3, 4, 7, and 8, canceled claim 2, and added new claim 9. The Examiner's comments and rejections are addressed below:

**Specification**

The Examiner has objected to informalities in the specification. More particularly, the Examiner has objected to the language used in the abstract, such as "according to the present invention." As a result, Applicant has amended the abstract by removing "according to the present invention."

In addition, the Examiner has objected to the drawings because the hook portion, impact portion, and slot in Paragraph [0021] of the specification should be designated by a referential numeral or character. As such, Applicant has amended Paragraphs [0021], [0022], and [0024] by adding referential numerals, 7a, 7b, and 14a, to correspond with the hook portion, impact portion, and slot, respectively. Accordingly, Applicant also has amended Figs. 1-3 by adding these referential numerals to the appropriate locations, as seen in the replacement sheets.

With these amendments, Applicant believes that no new matter was added to the specification. Based on the above, Applicant respectfully requests withdrawal of these objections.

**35 U.S.C. § 112, Second Paragraph Rejections**

The Examiner has rejected claims 4-6 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as his invention. More specifically, the Examiner stated that references to "a pad" and "a foot pad" in claim 4 was confusing because these terms could refer to the same or different items. Accordingly, Applicant has amended claim 4 to recite "the foot pad" to make claim terminology consistent and clear, which overcomes this rejection. Because claims 5 and 6 depend on claim 4, they now overcome this rejection as

well. In light of these amendments, Applicant respectfully requests withdrawal of this rejection.

#### **The 35 U.S.C. § 102(a) Rejections**

The Examiner has rejected claims 1, 7, and 8 under 35 U.S.C. § 102(a), as being anticipated by WO 03/045750 A1 (“Claude”). However, Applicant respectfully traverses this rejection in light of the amendments.

Applicant has amended claims 1 and 7 to include limitations previously recited in canceled claim 2. As such, no new limitations have been introduced to claim 1 and 7. Claim 1 now recites a pedal apparatus with a pedal arm having “a first pin pivotally connected to the supporting bracket and a second pin at an end of the pedal arm opposite to an end with a foot pad” and a lever having “has a third pin pivotally connected to the supporting bracket, a hook portion hooked to the second pin of the pedal arm, and an impact portion opposite to the striking portion.” Claim 7 now similarly recites a pedal apparatus with a pedal arm having “a first pin pivotally connected to a bracket and a second pin at an end of the pedal arm opposite to the lower, foot operated end below the pivot” and a lever having “a third pin pivotally connected to the bracket and a hook portion hooked to the second pin of the pedal arm.”

On the other hand, Claude teaches a pedal apparatus comprising a supporting bracket fixed to a dash panel, a pedal arm pivotally connected to the supporting bracket, and a lever hooked at one end to the pedal arm, in which the lever is configured to strike a striking portion (See Figure next to the Abstract). The pedal arm is pivotally connected to the supporting bracket through one pin, and a second pin pivotally connects the lever to the supporting bracket (See Figure.)

However, Claude does not teach a pedal pivotally connected to the supporting bracket with two pins and a lever pivotally connected to the supporting bracket with a third pin. Moreover, Claude does not teach a hook portion of the lever hooking onto the second pin of the pedal arm.

In light of these differences, Claude does not anticipate claims 1 and 7. Accordingly, since claim 8 depends on claim 7, Claude also does not anticipate claim 8. Therefore, Applicant respectfully requests withdrawal of this rejection, in light of the claim cancellations.

### **The 35 U.S.C. § 102(b) Rejections**

The Examiner has rejected claims 1-8 under 35 U.S.C. § 102(b) as being anticipated by EP 0 827 885 ("Gaetano"). However, Applicants respectfully traverses this rejection in light of the amendments.

As mentioned above, claims 1 and 7 have been similarly amended to recite a pedal arm pivotally connected to the supporting bracket by a first pin and by a second pin at an end of the pedal arm opposite to an end with a foot pad and a lever pivotally connected to the supporting bracket by a third pin and a hook portion hooked to the second pin of the pedal arm.

Gaetano discloses a pedal apparatus comprising a bracket (20) hinged to a support (16) integral with the front body frame (17), a pedal arm (10) pivotally connected to the bracket (20), and a lever (30) hooked at one end to the bracket (20), in which the lever (30) is pivotally mounted to the steering column (40) and configured to strike the steering column (40) from a counter-clockwise direction in the event of a frontal collision (col. 2, line 31-col. 3, line 19; Fig. 1). A first pin (15) pivotally connects the bracket (20) to the support (16) integral with the front body frame (17) (col. 2, line 31-col. 3, line 19; Fig. 1). A second pin (21) is also fixed to the bracket (20) for the lever (30) to hook onto it and where the lever unhooks from the second pin during a frontal collision (col. 2, line 31-col. 3, line 19; Figs. 1 and 2). A third pin (33) pivotally connects the lever (30) to the support (16) (col. 3, lines 1-3; Figs. 1-5).

The Examiner has mischaracterized the bracket (20) as an extension of the pedal arm because it is rotatably hinged to the support (16) and is pivotally connected to the pedal arm (10) through a different pin (11) (see page 5 of the Office Action). But the bracket in Gaetano is clearly a separate part from the pedal arm, and it normally does not move unless too much pressure is exerted on the pedal arm that might injure the driver's foot in a frontal collision (col. 3, lines 5-19; Figs. 1-2). In other words, the bracket normally does not rotate when the pedal arm is actuated by the driver's foot. Therefore, the bracket in Gaetano is not a pedal arm or an extension of a pedal arm.

Yet, in contrast, Gaetano does not teach the limitations of claims 1 and 7. For example, Gaetano does not teach a pedal arm having a first pin pivotally connected to the supporting bracket as claims 1 and 7 teach because the first pin in Gaetano is pivotally connecting the bracket to the support with the front body frame. Gaetano also does not teach

a second pin being at an end of the pedal arm opposite to an end with a foot pad because its second pin is at one end of the bracket, not the end of the pedal arm opposite to the foot pad. The third pin in Gaetano pivotally connects the lever to the support and not to the bracket as required by claims 1 and 7. Thus, claims 1 and 7 are patentably distinct from Gaetano.

Since claim 2 has been canceled, this rejection is now moot. However, claims 3-6 depend on claim 1, and they are also patentably distinct from Gaetano. With respect to claim 4, it is patentably distinct from Gaetano also because the hooked portion of the lever in Gaetano separates from the second pin on the bracket by rotating about the third pin in a direction of the front of the vehicle while claim 4 calls for the hooked portion to rotate about the third pin in “a direction of the front of the vehicle.” Finally, because claim 8 depends on claim 7, it is also patentably distinct from Gaetano.

Based on the above, Applicant believes that Gaetano does not anticipate claims 1 and 3-8 and respectfully requests withdrawal of this rejection.

#### **New Claim 9**

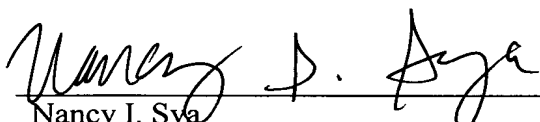
Applicant has added new claim 9, in order to further define the present invention. Claim 9 recites a pedal apparatus similar to that of claim 7, which is patentable over Claude and Gaetano for the reasons discussed above, but adds additional limitations further defining over the cited art. More specifically,, claim 9 further recites that “a second pin disposed on the pedal arm at a point rigidly linked to the pivot point and at an end of the pedal arm opposite to the lower, foot operated end.” Neither Claude nor Gaetano teaches a second pin being disposed on the pedal arm at a point rigidly linked to the pivot point and at an end of the pedal arm opposite to the lower, foot operated end. In particular, the pedal arm as proposed by the Examiner with respect to Gaetano includes two pieces with a pivotal linkage such that the pivot point of the pedal arm on the support structure and the latch pin for the lever are not rigidly linked, and rotate relative to each other. Therefore, for these additional reasons, Applicant believes claim 9 to be further patentable over the cited references.

**Conclusion**

In light of the present amendments and the above arguments, Applicant believes claims 1 and 3-9 are now allowable and the rejections moot. Should the Examiner have any continuing objections or concerns, the Examiner is respectfully asked to contact the undersigned in order to expedite allowance of this case. Authorization is granted to charge any outstanding fees due at this time for the continued prosecution of this matter to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310 (matter no. 060944-0183).

Respectfully submitted,

Date March 9, 2005

  
Nancy I. Sya 52,266  
For Thomas D. Kohler Reg. No.  
MORGAN, LEWIS & BOCKIUS LLP 32,797  
2 Palo Alto Square  
3000 El Camino Real, Suite 700  
Palo Alto, CA 94306  
Telephone: (650) 843-4000  
Facsimile: (650) 843-4001